

REMARKS

Claims 29, 31-42, and 44-56 remain pending in this application. In the final Office Action mailed March 16, 2009 (“Final Office Action”), claims 29-37, 42-50, 55, and 56 were rejected under 35 U.S.C. § 102(e) as being anticipated U.S. Patent No. 6,842,863 (“Fox”); claims 38 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fox in view of U.S. Patent No. 4,964,164 (“Fiat”); and claims 39-41 and 52-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fox in view of U.S. Patent Application Publication No. 2003/0115457 (“Wildish”).

By this Amendment After Final, Applicant proposes amending claims 29, 31-37, 39-42, 55, and 56. Applicant also proposes cancelling claims 30 and 43 without prejudice or disclaimer of the subject matter thereof. No new matter will be added by entry of this Amendment After Final.

In response to Applicant’s Reply to Office Action filed December 5, 2008 (“Reply”), the Office Action maintains that Fox discloses an originator device that is configured “not to send a new [digitally signed communication] item toward [a] recipient device in the absence of a respective digitally signed receipt for a previously sent item,” as recited in Applicant’s independent claims 29, 42, 55, and 56 presented in the Reply. Applicant does not necessarily agree with the Office Action’s position. Nevertheless, Applicant has amended independent claims 49, 42, 55, and 56 in the interest of advancing prosecution in this application. Accordingly, Applicant reserves the right to re-present the subject matter recited in claims 29, 42, 55, and 56, as previously presented, in this or a related application.

I. **Claim Rejection Under 35 U.S.C. § 102(e)**

Claims 29-37, 42-50, 55, and 56 were rejected under 35 U.S.C § 102(e) as being anticipated by Fox. Claims 29, 42, 55, and 56 are the only independent claims included in this claim rejection, and Applicant traverses the rejection of these claims under 35 U.S.C. § 102(e) based on Fox at least because Fox fails to disclose all of the subject matter recited in each of those claims.

A. **Amended Independent Claims 29 and 56**

Amended independent claims 29 and 56 each recite “a method of arranging communication between an administrator device and an administered device in a network, comprising . . . detecting, at [an] originator device, that a respective digitally signed receipt item from [an] recipient device failed to reach the originator device within a given time period after a message item was issued by said originator device; and asking said recipient device for a signed statement indicating at least one of a last message item received and a last message item sent by said recipient device.” Fox fails to disclose at least this subject matter recited in amended independent claims 29 and 56.

Fox is directed to a method and system for authenticating an end entity 60 (e.g., a customer) to a relying party 62 (e.g., a merchant) in order to facilitate and record financial transactions made over a computer-based network (i.e., the Internet). See Fox at col. 4, lines 56-66 and Fig. 2. To initiate a transaction, end entity 60 sends a transaction request 72 to a relying party 62 along with a digital certificate 64. See Fox at col. 5, lines 36-40 and Figs. 2 and 3. The digital certificate 64 and the transaction request 72 are received by an external interface 74 of the relying party 62 and are

forwarded to a policy evaluation engine 76, which evaluates whether the digital certificate 64 and transaction request 72 comply with the relying party's acceptance policy for the transaction. See Fox at col. 5, lines 40-47 and Figs. 2 and 3. After verifying the legitimacy of transaction and digital certificate 64 of end entity 60, and in order to ensure that the end entity's transaction request 72 and digital certificate remain valid throughout the transaction session, relying party 62 may send a request message 77 to inquire as to the status of the digital certificate 64 to a certificate authority 66. See Fox at col. 5, lines 61-67 and Figs. 2 and 3. In response to the request, certificate authority 66 may issue a "reissue" digital certificate, attesting to the validity of the digital certificate 64. See Fox at col. 7, lines 19-22 and Figs. 2 and 3. In case of a failure of the request, certificate authority 66 may provide information to relying party 62 indicating the reason(s) for the failure of the request. See Fox at col. 8, lines 19-24 and Figs. 2 and 3. Policy evaluation engine 76 of relying party 62 may send a notice to end entity 60, notifying end entity 60 of the rejection of the requested transaction. See Fox at col. 10, lines 39-42.

Applicant notes that independent claims 29 and 56 have been amended to include the subject matter recited in dependent claim 30. In rejecting dependent claims 30, the final Office Action asserts that Fox discloses "asking said recipient device for a signed statement indicating at least one of a last message item received and a last message item sent by said recipient device," pointing to Fox at col. 6, lines 32-52. Final Office Action at 5. Nowhere in the cited passage does Fox disclose or render obvious such subject matter. In fact, Fox is altogether silent with respect to requesting a signed statement from a recipient device indicating at least one of a last message item

received by the recipient device and a last message item sent by the recipient device, and does not render obvious such subject matter.

Because Fox fails to disclose or render obvious all of the subject matter recited in each of amended independent claims 29 and 56, the 35 U.S.C. § 102(e) rejection with respect to these claims based on Fox is improper and should be withdrawn. Further, claims 31-41 depend, either directly or indirectly, from amended independent claim 29 and should be allowable for at least the same reason that amended independent claim 29 is allowable. Therefore, Applicant respectfully requests reconsideration and withdrawal of the § 102(e) rejection with respect to claims 29, 31-41, and 56. Further, Applicant proposes cancelling dependent claim 30. Therefore, entry of this proposed Amendment After Final renders the 35 U.S.C. § 102(e) rejection of dependent claim moot.

B. Amended Independent Claims 42 and 55

Applicant notes that independent claims 42 and 55 have been amended to include the subject matter recited in dependent claim 43. Specifically, amended independent claims 42 and 55 are directed to a system and a communication network, respectively, comprising . . . “an administrator device and an administered device in a network, said administrator device and administered device being configured for communication in the form of a chain of digitally signed communication items including messages sent from an originator device to a recipient device, each said message having associated a respective digitally signed receipt, and wherein said originator device is configured to: . . . detect that a respective digitally signed receipt item from said recipient device failed to reach the originator device within a given time period after

a message item was issued by said originator device; and ask said recipient device for a signed statement indicating at least one of a last message item received and a last message item sent by said recipient device.” As outlined above with respect to amended independent claims 29 and 56, Fox fails to disclose or render obvious at least “ask[ing] said recipient device for a signed statement indicating at least one of a last message item received and a last message item sent by said recipient device,” as recited in Applicant’s amended independent claims 42 and 55.

Because Fox fails to disclose or render obvious all of the subject matter recited in each of amended independent claims 42 and 55, the 35 U.S.C. § 102(e) rejection with respect to these claims based on Fox is improper and should be withdrawn. Further, claims 44-54 depend, either directly or indirectly, from amended independent claim 42 and should be allowable for at least the same reason that amended independent claim 42 is allowable. Therefore, Applicant respectfully requests reconsideration and withdrawal of the § 102(e) rejection with respect to claims 42, 44-54, and 55. Further, Applicant proposes cancelling dependent claim 43. Therefore, entry of this proposed Amendment After Final renders the 35 U.S.C. § 102(e) rejection of dependent claim moot.

II. Rejections Under 35 U.S.C. § 103(a)

A. Dependent Claims 38 and 51

Dependent claims 38 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fox in view of Fiat. Dependent claims 38 and 51 depend from amended independent claims 29 and 42, respectively, which are allowable over Fox for at least the reasons outlined above. Fiat, which was cited only for its purported

disclosure of RSA digital signatures, does not remedy the deficiencies of Fox outlined above, because using RSA digital signatures does not constitute disclosure of, nor does it render obvious, "ask[ing] said recipient device for a signed statement indicating at least one of a last message item received and a last message item sent by said recipient device," as recited in Applicant's amended independent claims 29 and 42. Therefore, the 35 U.S.C. § 103(a) rejection of dependent claims 38 and 51 is improper and should be withdrawn.

B. Dependent Claims 39-41 and 52-54

Dependent claims 39-41 and 52-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fox in view of Wildish. Each of dependent claims 39-41 and 52-54 depends, either directly or indirectly, from one of amended independent claims 29 and 42, which are allowable over Fox for at least the reasons outlined above. Wildish, which was cited only for its purported disclosure of a device that can hide its identity by using pseudonym digital certificates, does not remedy the deficiencies of Fox outlined above, because hiding an identity of a device using pseudonym digital certificates does not constitute disclosure of, nor does it render obvious, "ask[ing] said recipient device for a signed statement indicating at least one of a last message item received and a last message item sent by said recipient device," as recited in Applicant's amended independent claims 29 and 42. Therefore, the 35 U.S.C. § 103(a) rejection of dependent claims 39-41 and 52-54 is improper and should be withdrawn.

III. Conclusion

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 29, 31-42, and 44-56 in condition for

allowance. Applicant submits that the proposed amendments of claims 29, 31-37, 39-42, 55, and 56 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, as all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final Office Action presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of this Amendment After Final would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of this Amendment After Final would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of this application, withdrawal of the claim rejections, and timely allowance of pending claims 29, 31-42, and 44-56.

The Office Action contains characterizations and assertions regarding the claims and the cited art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant respectfully declines to automatically subscribe to any characterization or assertion in the Office Action.

If the Examiner believes that a conversation might expedite prosecution of this application, the Examiner is cordially invited to call Applicant's undersigned representative.

Please grant any extensions of time required to enter this Amendment After Final
and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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